IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Bail Appl..No. 3908 of 2007()

CRIME NO.135 OF 2007 OF PAMPADY POLICE STATION

PETITIONER/ACCUSED NO.2

MURUKAN, S/O. PAZHANI ACHARI,
AGED 30 YEARS, 289-B, THEKKETHUNDIYIL,
CHANGANASSERY.

BY ADV. SRI.B.RENJITHKUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 3908 of 2007

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Dated this the 6th day of July, 2007

O R D E R

Application for anticipatory bail. One Naseem was arrested by the Pampady police under suspicious circumstances. He was interrogated. A gold chain was recovered from him. Crime No. 135 of 2007 was registered at the Pampady police station. In the course of investigation, it was revealed that the said Naseem along with the petitioner herein had committed certain crimes. They are involved in Crime Nos. 147 of 2007 and 189 of 2007 of Koratty police station. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Merely on the basis of the alleged confession of one Naseem, with whom the petitioner has some acquaintance, the petitioner is sought to be proceeded against. He is a person leading a respectable life. Arrest and incarceration in prison is likely to affect the petitioner considerably. In these circumstances it is prayed that directions under Section 438 Cr.P.C. may be issued in favour of the petitioner.

2. The learned Prosecutor opposes the application. He submits that crucial material is available with the Investigator about the

involvement and complicity of the petitioner on the basis of the interrogation of the co-accused. The petitioner has to be interrogated and arrested, if necessary. The available indications point to the complicity of the petitioner. Effective and efficient investigation will not be possible if the petitioner were permitted to arm himself with an order of anticipatory bail at this early stage. The very nature of the crime suggests the need and importance of effective interrogation of the petitioner. In these circumstances anticipatory bail may not be granted, prays the Prosecutor.

3. I find merit in the opposition by the learned Prosecutor. I am not persuaded to agree that there are any circumstance justifying the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. This, I am satisfied, is an eminently fit case where petitioner must appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. This application is hence dismissed.

(R. BASANT)
Judge

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